

Please enter the following remarks:

**STATUS OF THE CLAIMS**

Claims 22, 29-35, 38, 40-41 are pending.

Claims 1-21, 23-28, 36, 37, and 39 have been canceled.

Claims 22, 29-35, 38, 40 and 41 have been rejected by the Examiner. (Note that the Examiner does not specifically reject claim 35 in the text of the Office Action, but the Office Action Summary lists claim 35 as rejected)

Reconsideration of the present Application is respectfully requested.

**REMARKS**

Claims 22 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ballantyne et al.* (U.S. Patent No. 5,867,821, hereinafter, “Ballantyne”) in view of *Evans* (U.S. Patent No. 5,924,074, hereinafter, “Evans”), and in view of *Lavin et al.* (U.S. Patent No. 5,924,074, hereinafter, “Lavin”), and in view of *Schultz et al.* (U.S. Patent No. 5,679,943, hereinafter, “Schultz”). Claims 30-34, 38 and 41 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ballantyne*, in view of *Evans*, in view of *Lavin* and in view of *Schultz*. Applicant respectfully traverses these rejections for at least the following reasons.

35 U.S.C. § 103(a) recites:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

To establish obviousness, the scope and content of the prior art must first be determined. Second, the differences between the prior art and the claims at issue must be ascertained. Third, the level of ordinary skill in the relevant art must be determined. Finally, taking this background into consideration, the obviousness of the subject matter is determined. Secondary considerations such as commercial success, long felt but unsolved needs, failure of others, etc., can be utilized to determine the circumstances surrounding the origin of the subject matter sought to be patented. *Graham v. John Deere*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966), M.P.E.P. § 2141.

The Examiner rejects Claims 22 and 29 under 35 U.S.C. § 103(a) as being unpatentable over *Ballantyne et al.* (U.S. Patent No. 5,867,821, hereinafter, “Ballantyne”) in view of *Evans* (U.S. Patent No. 5,924,074, hereinafter, “Evans”), and in view of *Lavin et al.* (U.S. Patent No. 5,924,074, hereinafter, “Lavin”), and in view of *Schultz et al.* (U.S. Patent No. 5,679,943, hereinafter, “Schultz”). The Examiner further rejects Claims 30-34, 38 and 41 under 35 U.S.C. § 103(a) as being unpatentable over Ballantyne, in view of Evans, in view of Lavin and in view of Schultz. Applicant traverses the Examiner’s rejection.

Independent Claim 22 claims “an information transmission device integral with said personal assistant; wherein the information transmission device is an alpha-numeric scanner.” Independent Claim 30 claims a method of associating information including comprising “storing said information in a personal assistant, wherein said personal assistant comprises an alpha-numeric scanner” and “scanning an identifier using an alpha-numeric scanner.” Independent Claim 38 claims a software program including comprising an automated data collection module for inputting a patient identifier “wherein said automated data collection module accepts data gathered by an alpha-numeric scanner integral with said personal assistant.” Applicant amended

its independent claims in the previous Office Action response to include this alpha-numeric scanner limitation. The Examiner cites Schultz for disclosing the alpha-numeric scanner limitation. Schultz, however, does not teach, suggest, or disclose an alpha-numeric scanner integral with a personal assistant. Schultz teaches a “bar code reader” (Col. 6, line 51) or a scanner that “can be used to read bar codes or the like.” (Col. 6, lines 57-59). A scanner that reads bar codes is not the same as an alpha-numeric scanner. An alpha-numeric scanner reads alpha-numeric characters, whereas a bar code reader reads bars and spaces *encoded to correspond to* specific alpha-numeric characters. Applicant’s alpha-numeric scanner reads alpha-numeric characters directly representative of the information desired; the physician avoids the encoding step by utilizing Applicant’s alpha-numeric scanner. Further, Applicant’s specification specifies a distinction between a bar code reader and an alpha-numeric scanner, further supporting that the two are distinguishable. *See* Specification at p. 4 (“the information transmission device is a laser configured to read bar codes, but could also be an infra-red beam, an alpha-numeric scanner, magnetic strip reader, or a radio frequency transceiver.”) Because Applicant’s alpha-numeric scanner is not a bar code reader as disclosed in Schultz, Schultz does not disclose this element of independent Claims 22, 30 or 38. Applicant’s alpha-numeric scanner is further not disclosed in Ballantyne, Evans, or Lavin, nor does the Office Action suggest that they are.

Because Ballantyne, Evans, Lavin and Schultz all fail to disclose a personal assistant comprising an alpha-numeric scanner or an alpha-numeric scanner being integral with a personal assistant, not all of the elements of independent claims 22, 30, and 38 are taught. Thus, Ballantyne, Evans, Lavin and Schultz cannot render independent claims 22, 30, and 38 obvious. Applicant further submits that dependant claims (claims 29, 31-34, and 40-41) are similarly

distinguishable over the references cited, at least by virtue of each claim's ultimate dependency from the patentably distinct claims 22, 30 and 38. Applicant notes that the Examiner does not explicitly reject dependant claim 35 in the present Office Action (dated December 13, 2007), although its rejection is listed in the "Disposition of Claims" in the Office Action Summary. To the extent that the Examiner rejects claim 35, dependant claim 35 is distinguishable over the references cited, at least by virtue of its ultimate dependency from patentably distinct claim 30.

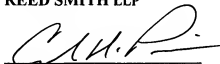
Furthermore, the Examiner argues that "Applicant's duplication of bar codes (e.g., a second bar code associated with the information; scanning the second bar code, associating the information associated with the second bar code, etc.) has no patentable significance unless a new and unexpected result is produced." Applicant suspects that the Examiner must be referring to claims 32-34 as they stood prior to the last round of amendments since the Examiner's argument refers to the "duplication of bar codes." In the previous Office Action Response (dated October 3, 2007), Applicant amended claims 31-34 to claim "alpha-numeric" code and not "bar code." Therefore, the Examiner's argument with respect to patentable significance of claims 31-34 is irrelevant.

As stated above, Applicant believes that independent claim 30 (from which dependant claims 31-34 depend) is patentably distinct. Therefore, because claims 31-34 depend from a patentably distinct independent claim 30, the dependant claims of a patentably distinct independent claim must produce a new and unexpected result. Therefore, because independent claim 30 is patentably distinct, the Examiner's argument that dependant claims 31-34 are not patentably significant unless a new and unexpected result is produced is moot.

**Conclusion**

In light of the forgoing, Applicant respectfully submits that the pending claims are in condition for allowance. A Notice of Allowance for all pending claims is earnestly solicited.

Respectfully Submitted,  
**REED SMITH LLP**

A handwritten signature in black ink, appearing to read 'C.H. Pierce', is written over a horizontal line.

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